

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 17102 of 2005

Between:

S.M. Gayas Hussain,

..... PETITIONER

AND

1.The Secretary, Regional Trannsport Authority, Kadapa,
2.The Motor Vehicle Inspector, Atmakur, Kurnool District,

.....RESPONDENTS

Counsel for the Petitioner: MR.ARIFULLA

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following:

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ORDER:

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This writ petition is filed by the petitioner aggrieved by the non-releasing the seized vehicle bearing registration No. AP 04/U 8536 under check report No.0326240, dated 23.07.2005 for the alleged irregularities specified therein.

2. According to the petitioner, second respondent checked and seized the vehicle for the alleged irregularities. Immediately, thereafter, on 27.07.2005, the petitioner made

an application seeking release of the vehicle, but the first respondent did not pass any orders on the said application. Therefore, the petitioner come up with the present writ petition.

3. The learned counsel for the petitioner, at the time of hearing contended that in terms of the judgment of this Court in **Saleem Tours & Travels and others v. The Joint Transport Commissioner and Secretary, Regional Transport Authority, Hyderabad and another**, the vehicle has to be released when the application has been made seeking release of the vehicle, pending conclusion of the enquiry as contemplated under the Provisions of the Act and Rules made thereunder.

4. The learned Government Pleader for Transport sought to contend that the petitioner has fixed extra seats over and above the permitted sitting capacity of 13, and therefore, the writ petitioner is liable to pay additional tax for the extra seats apart from the tax due for the permitted seats.

5. Heard both sides and considered the material available on record.

6. As the enquiry, contemplated under the Provisions of the Act and Rules framed thereunder, is pending before the first respondent, the first respondent obligated to release the vehicle on an application, pending conclusion of the enquiry.

7. Accordingly, the first respondent is directed to release the vehicle in favour of the petitioner on depositing a sum of Rs.6,000/- (Rupees six thousand only) and also admitted tax payable if any, and also furnishing an undertaking that the petitioner shall not alienate or encumber the vehicle in question and the same shall be produced as and when required for the purpose of enquiry. The release of the vehicle and the deposit made by the petitioner shall be to the out come of the enquiry contemplated under the Provisions of the Act and Rules made thereunder. The first respondent is also at liberty to take a statement from the petitioner as to the physical features of the seized vehicle before releasing of the same.

8. Accordingly, the writ petition is disposed of. No order as to costs.

(S. ANANDA REDDY, J)

Date: 03.08.2005

Note: Wire at party's costs.

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